



HIPAA Complaints

HIPAA Training

TMA Privacy Office

HIPAA Complaints Agenda

- Background of HIPAA Complaints
- Types of Complaints
- Complaint Process

HIPAA Complaints Training Objectives

- Upon completion of this course, you will be able to:
 - Describe the background of HIPAA complaints
 - Identify the types of complaints
 - Understand how a complaint is processed

Background of HIPAA Complaints Objectives

- Upon completion of this lesson, you will be able to:
 - Explain the complaint right and its provisions
 - Determine what is/is not a HIPAA complaint
 - Understand role as patient's advocate
 - Explain role of Office of Civil Rights (OCR) in Health and Human Services (HHS) for HIPAA Privacy compliance
 - Maintain necessary communication of complaints

Background of HIPAA Complaints Right to Complain

- All beneficiaries have the right to complain if they believe their privacy rights have been violated or if they feel the covered entity has failed to meet its responsibilities (C14.4)
 - These rights, according to the Notice of Privacy Practices (NoPP), include:
 - Right to Inspect and Copy
 - Right to Request Restrictions
 - Right to Request Confidential Communications
 - Right to Request Amendment
 - Right to an Accounting of Disclosures
 - Right to Obtain a Copy of the NoPP

What is/is Not a Valid Complaint (1 of 6)

- Most beneficiaries do not understand what constitutes a valid HIPAA Complaint under the rule
- Privacy Officer will need to read and analyze the complaint to determine if it is a valid HIPAA Complaint
- Things to look for:
 - Beneficiary provided information
 - Pursuant to an Authorization
 - Protected Health Information (PHI) correctly used or disclosed as part of Treatment, Payment, and Health Care Operations (TPO)
 - PHI released based on 14 Uses and Disclosures, was disclosure recorded
 - Determine if complaint is HIPAA based or based on other privacy laws

Background of HIPAA Complaints What is/is Not a Valid Complaint (2 of 6)

- Beneficiary provided information
 - If a beneficiary provides the information to another individual or department outside of the Covered Entity (CE), the information is no longer PHI as it was not in the possession of the covered entity
- Pursuant to an Authorization
 - If PHI was released per an authorization from the beneficiary, then the basis for a HIPAA violation is no longer valid as the covered entity complied with the beneficiary request

What is/is Not a Valid Complaint (3 of 6)

- PHI used or disclosed as part of Treatment, Payment, and Health Care Operations (TPO)
 - If the PHI was used or disclosed in a manner that meets the definition of TPO then the CE performed their duty per HIPAA

Treatment:

 "Treatment" generally means the provision, coordination, or management of health care and related services among health care providers or by a health care provider with a third party, consultation between health care providers regarding a patient, or the referral of a patient from one health care provider to another

What is/is Not a Valid Complaint (4 of 6)

Payment:

 "Payment" encompasses the various activities of health care providers to obtain payment or be reimbursed for their services and of a health plan to obtain premiums, to fulfill their coverage responsibilities and provide benefits under the plan, and to obtain or provide reimbursement for the provision of health care

Healthcare Operations:

- "Healthcare operations" are certain administrative, financial, legal, and quality improvement activities of a covered entity that are necessary to run its business and to support the core functions of treatment and payment
- Ensure that PHI disclosed met the minimum necessary requirement

What is/is Not a Valid Complaint (5 of 6)

- PHI released based on 14 Uses and Disclosures
 - If the PHI was released pursuant to one of the 14 uses and disclosure where beneficiary agreement or objection is not required, the CE must ensure disclosure was recorded, and that PHI provided met minimum necessary requirement
 - 1. As required by law
 - 2. Avert serious threats to health or safety
 - 3. Specialized government functions/ military provisions
 - 4. Judicial and administrative proceedings
 - 5. Medical facility patient directories
 - 6. Cadaver organ, eye or tissue donation purposes
 - 7. Victims of abuse, neglect or domestic violence
 - 8. Inmates in correctional institutions or in custody
 - 9. Workers' compensation
 - 10. Research purposes
 - 11. Public health activities
 - 12. Health oversight activities
 - 13. About decedents
 - 14. Law enforcement purposes

Background of HIPAA Complaints What is/is Not a Valid Complaint (6 of 6)

- Determine if it is a HIPAA complaint or based on other privacy laws
 - Many times complaints filed as HIPAA complaints are grievances under another privacy law
 - Review each complaint to determine if a Privacy Act,
 Freedom of Information Act (FOIA) or other Privacy statute applies
 - If the problem is not HIPAA based, direct the complainant to the appropriate office

Patient Advocacy

- Privacy Officers should act as the patient's advocate
- Consider the patient's perception, even if complaint is not valid
 - If problem is with another area, direct patient to correct Point of Contact (POC)
 - If no HIPAA violation has occurred, explain facts surrounding the circumstance to the patient
 - Never ignore a patient's concerns

The mission of the MHS is to deliver health care services to our beneficiaries

The mission of the TMA Privacy Office is to ensure the confidentiality of PHI

Role of HIPAA Complaints

- The Office for Civil Rights in the Department of Health and Human Services is the federally designated agency for the enforcement of HIPAA Privacy
- OCR/HHS has the authority to inspect any Covered Entity (CE) in the process of investigating a HIPAA Privacy complaint
- Complaints related to all other HIPAA Rules are administered through the Center for Medicare/Medicaid Services (CMS)

Communication of Complaints

- Each MTF must have policies and procedures for addressing and resolving complaints
- Whenever possible complaints should be addressed at the local level
- TMA recommends MTFs report to their Service Representatives monthly on complaint statistics
 - HHS complaints
 - Beneficiary complaints
 - Staff and organization complaints
- TMA proposes that the Services provide aggregate complaint reports at a frequency to be determined

Background of HIPAA Complaints **Summary**

- You should now be able to:
 - Explain the complaint right and its provisions
 - Determine what is/is not a HIPAA complaint
 - Understand role as patient's advocate
 - Explain role of Office of Civil Rights (OCR) in Health and Human Services (HHS) for HIPAA Privacy compliance
 - Maintain necessary communication of complaints

Objectives

- Upon completion of this lesson, you will be able to:
 - Identify complaints based on a violation of patient rights
 - Identify the types of disclosures that result in complaints

Violation of Patient Rights

- Some of the most common complaints are based on the beneficiary's understanding of their rights as outlined in the NoPP
- Examples of Violations of Patient Rights:
 - Denying the beneficiary access to their record to inspect and copy
 - Releasing data from a record that has had a restriction placed on it
 - Contacting a beneficiary at their primary phone number or address when they have requested to be contacted at an alternate location
 - Denying a request for amendment without providing cause
 - Providing an incomplete accounting of disclosure
 - Not providing a copy of the NoPP when requested

Types of Disclosures (1 of 2)

- Many complaints are based on what the beneficiary feels was an inappropriate disclosure
- There are three types of disclosures that often result in complaints:
 - Incidental
 - Accidental
 - Malicious Intent

Types of Disclosures (2 of 2)

- Incidental Disclosures that occur during the course of routine business that are unavoidable
 - Calling patient's name in the waiting room
- Accidental Disclosures that occur due to an error
 - Misdialing a fax number and causing PHI to be sent to the wrong individual
- Malicious Intent Disclosures that were intended and malicious in nature. PHI that is taken for a wrongful purpose
 - Taking PHI for purpose of identity theft

Summary

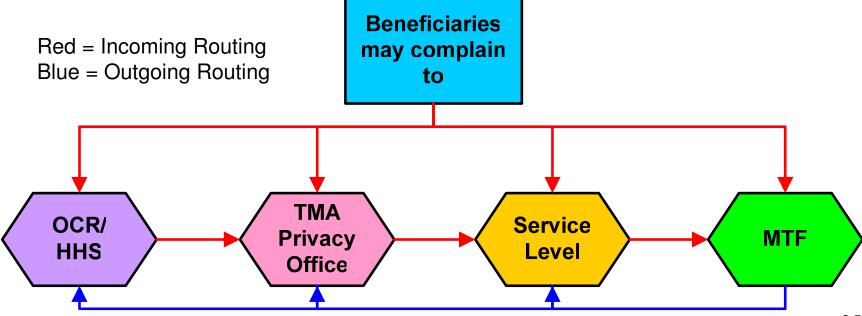
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 - Identify complaints based on a violation of patient rights
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Objectives

- Upon completion of this lesson, you will be able to:
 - Understand the ways a complaint can be routed to a MTF
 - Identify the responsibilities of the investigating officer
 - Understand the investigation process
 - Identify the reporting process
 - Explain the timeframe of a complaint
 - Enter a complaint in the Protected Health Information Management Tool (PHIMT)

Routing to Facility

- HIPAA gives patients the right to send their complaint to many levels:
 - HHS/CMS
 - TMA Privacy Office
 - MTF



Responsibilities of Investigating Officer

- Privacy/Security Officer at the MTF will ensure an Investigating Officer (IO) is appointed
- IO is responsible for:
 - Collecting and verifying all information related to the complaint
 - Ensuring documentation is retained in accordance with HIPAA and local policy
 - Meeting investigation timelines
 - Responding to all necessary parties
 - Documenting findings of facts, opinions and recommendations
 - Briefing commander
- Commanders have the responsibility to take appropriate action based on the recommendations of the IO

Investigation Process (1 of 2)

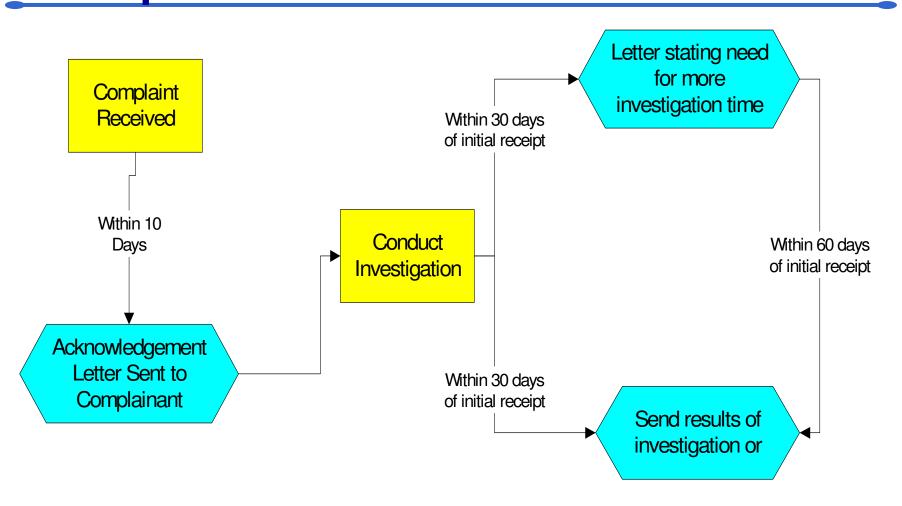
The IO will:

- Determine if incident is in violation according to MTF/Service/DoD policies
- Determine if policies were available to all workforce members involved
- Interview all involved parties
- Verify training status in the Learning Management System of personnel involved in the complaint
- Check PHIMT to ensure disclosure recorded if complaint is related to disclosure

Investigation Process (2 of 2)

- The IO will (cont'd):
 - Consult with legal counsel as needed
 - Consult with Privacy/Security Officer as needed
 - Determine if a violation occurred
 - Determine complaint validity

TMAs Recommended Timeframe of a Complaint



Service Responses

- Beneficiary complaint received at MTF:
 - Handled at Service level
- TMA routed complaint:
 - Instructions for response will be provided in forwarding letter
- HHS routed complaint:
 - All Service responses are to be routed via TMA Privacy
 Office for endorsement to HHS
 - Responses to complaining party will be determined on a case by case basis

Content of Response Letter

- Beneficiary complaint received at MTF:
 - A written response by MTF including the high level details of the investigation must be sent to the complainant for all complaints
 - If the complaint is proven to be a valid HIPAA complaint, include any corrective actions and mitigation steps that were taken
 - If the complaint is not a valid HIPAA complaint, provide explanation and resources for redirection
 - TMA developing periodic reporting requirements
- TMA routed complaint:
 - Instructions for response will be provided in forwarding letter
- HHS routed complaint:
 - Each response requirement will be determined on a case by case basis

Entry into the PHIMT

- Privacy/Security Officers are able to track complaints and create reports using the PHIMT
- Allows for easy tracking and documentation of complaints in one centrally managed application
- Only Privacy Specialists can record complaints
- Both Privacy Specialists and User Admins can run a report on the number of complaints recorded

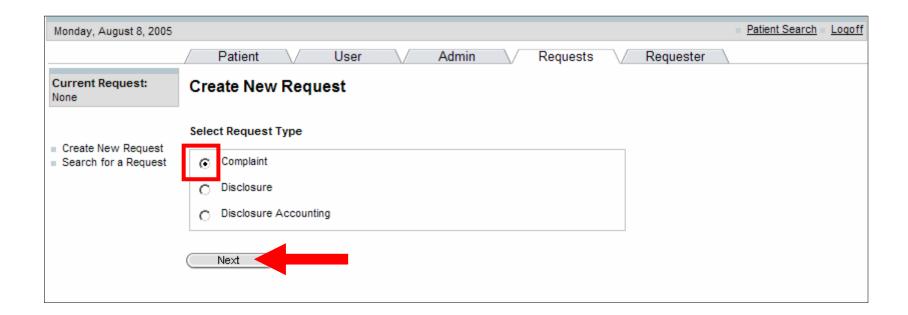
Recording the Complaint (1 of 8)

1. Click on the Requests Tab



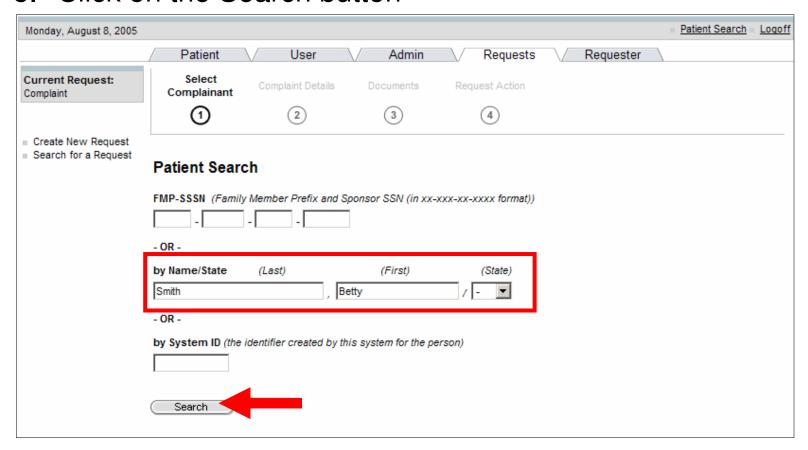
Recording the Complaint (2 of 8)

- The Create New Request Screen will appear
- 2. Click the Complaint radio button
- 3. Click on the Next button



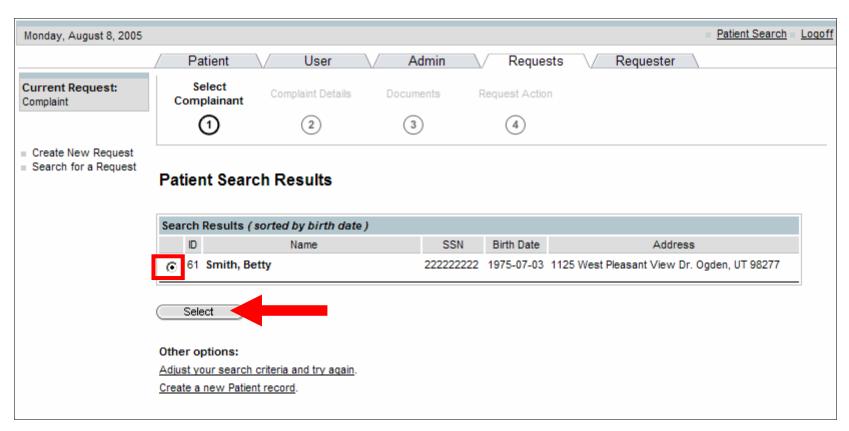
Recording the Complaint (3 of 8)

- The Select Complainant screen will appear
- 4. Search for the patient (FMP-SSSN or the Patient's name)
- 5. Click on the Search button



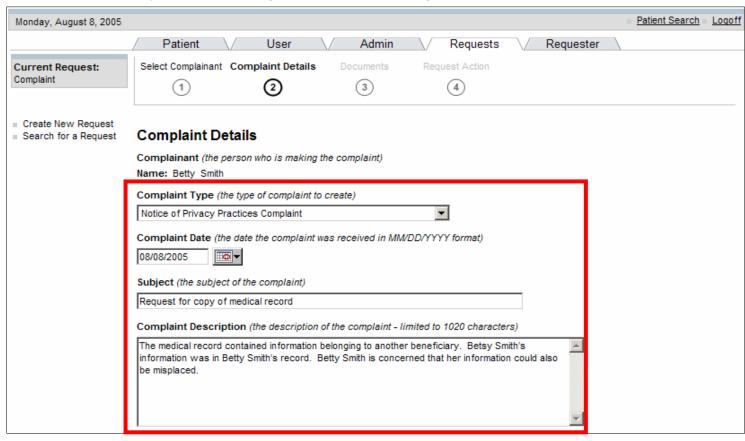
Recording the Complaint (4 of 8)

- The Patient Search Results screen will appear
- 6. Select the patient



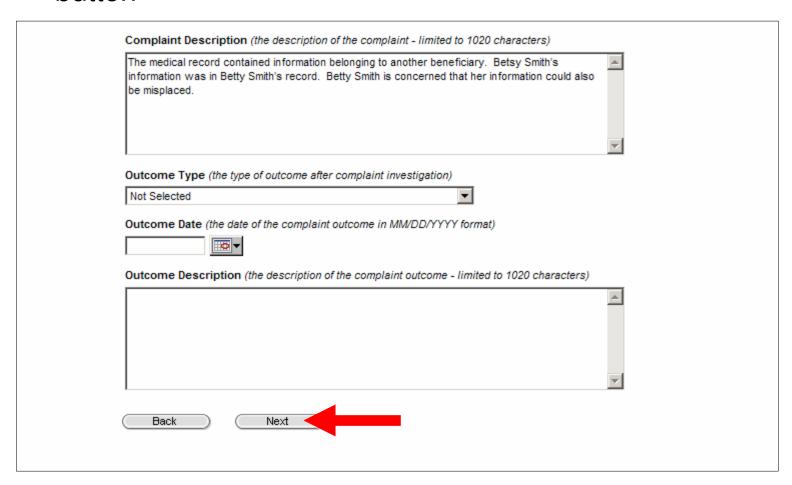
Recording the Complaint (5 of 8)

- The Complaint Details screen will appear
- 7. Complete the complaint details (complaint type, complaint date, subject, complaint description)



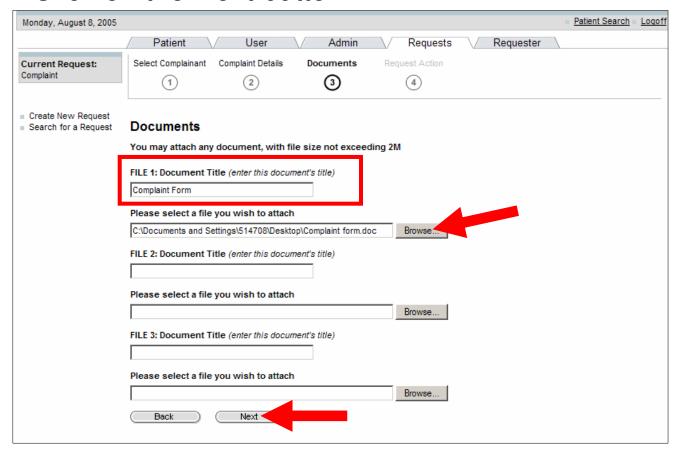
Recording the Complaint (6 of 8)

8. Scroll to the bottom of the screen and click on the Next button



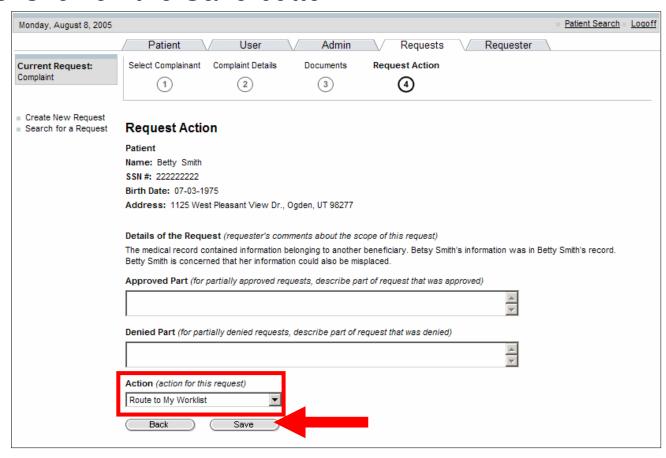
Recording the Complaint (7 of 8)

- 9. Type in the Document Title
- 10. Click on the browse button to attach the file
- 11. Click on the Next button



Recording the Complaint (8 of 8)

- The Request Action screen will appear
- 12. Select the appropriate action from the drop-down box
- 13. Click on the Save button



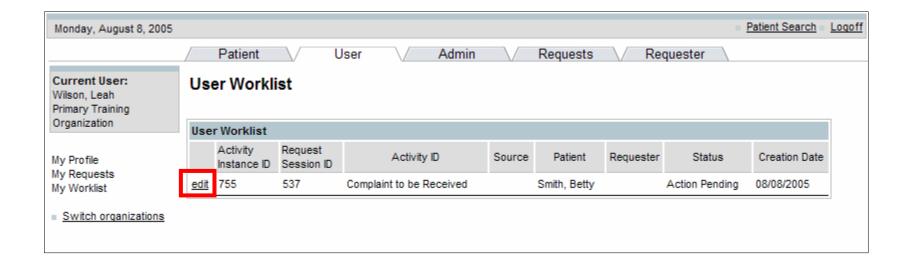
Receiving the Complaint (1 of 5)

- The Request Summary Screen will display
- 1. Select the User Tab



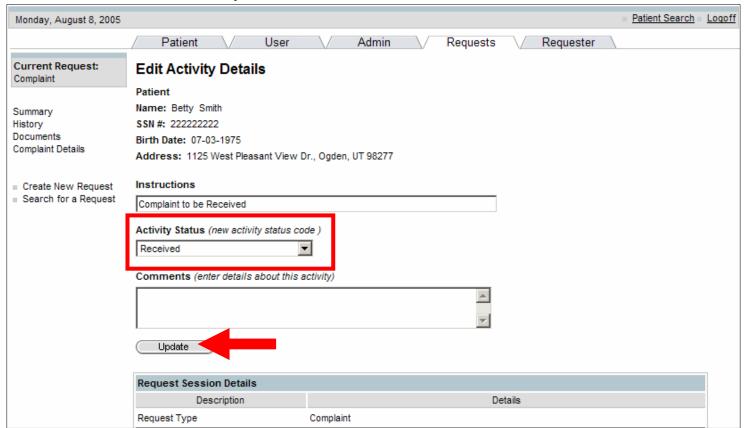
Receiving the Complaint (2 of 5)

- The complaint will appear in the User Worklist
- 2. Select the Edit hyperlink



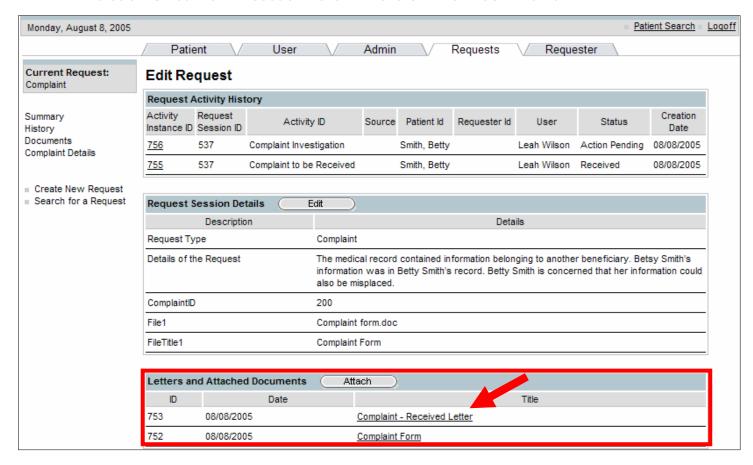
Receiving the Complaint (3 of 5)

- The Edit Activity Details screen will appear
- 3. Select Received from the Activity Status drop-down box
- 4. Click on the Update button



Receiving the Complaint (4 of 5)

- The Edit Request screen will appear
- 5. Select the Complaint-Received Letter hyperlink in the Letters and Attached Documents field



Receiving the Complaint (5 of 5)

The Complaint Received letter is generated



DEPARTMENT OF THE NAVY Primary Training Organization Skyline Pl. Falls Church, VA 20110

08 Aug 05

Betty Smith 1125 West Pleasant View Dr. Ogden, UT 98277

Dear Betty Smith,

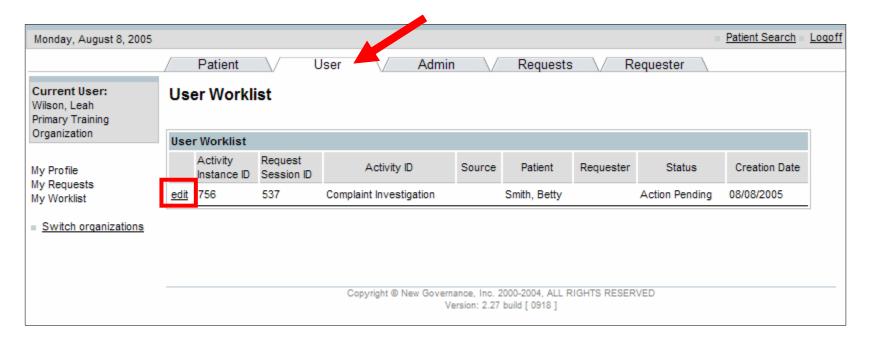
Your Health Information Complaint Form, dated 08/08/2005 has been received by the Privacy Office. I will investigate your complaint and determine any further action.

During the investigation, you may be contacted for more information. You will be notified within 30 days of the status of your complaint.

If you have any questions please contact the Primary Training Organization, Skyline Pl., Falls Church, VA 20110, .

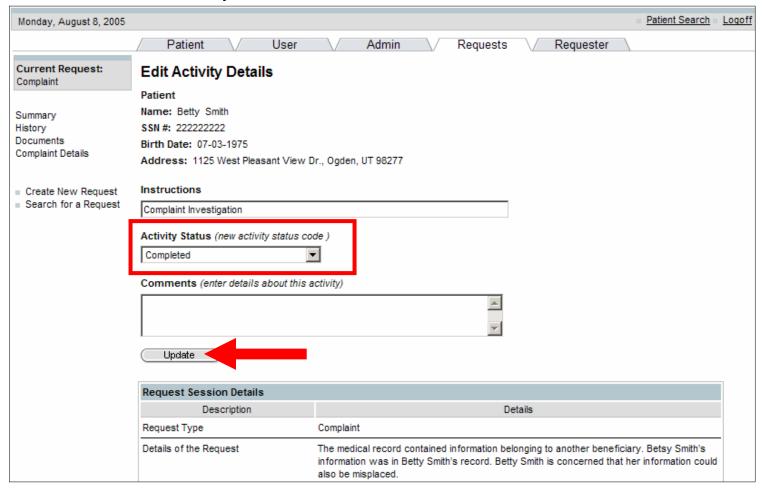
Updating the Complaint (1 of 7)

- 1. Select the User Tab
- 2. Select the Edit hyperlink



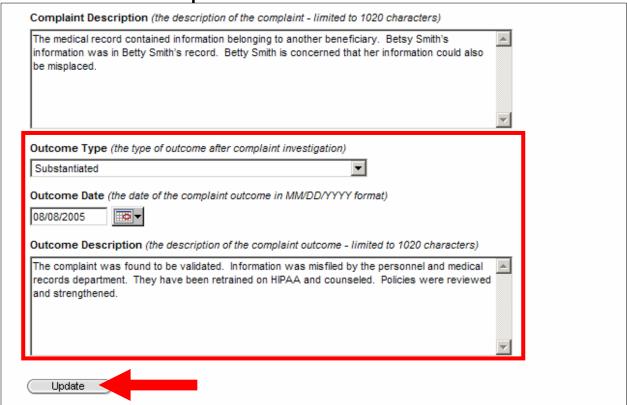
Updating the Complaint (2 of 7)

- 3. Select Completed from the Activity Status drop-down box
- 4. Click on the Update button



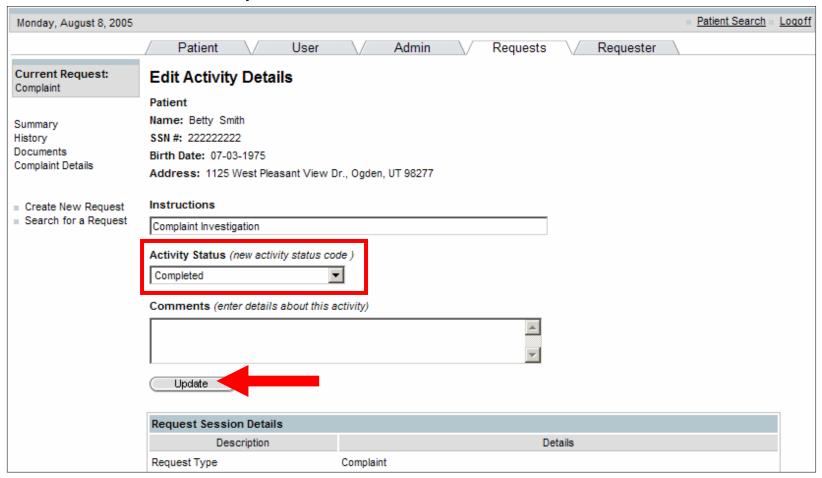
Updating the Complaint (3 of 7)

- The Complaint Details screen will appear
- 5. Complete the Complaint Details (type, date, and description)
- 6. Click on the Update button



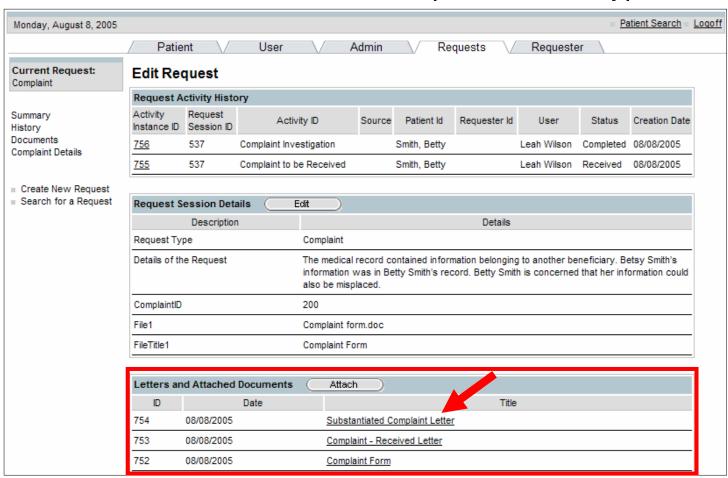
Updating the Complaint (4 of 7)

- 7. Select Completed from the Activity Status drop-down box
- 8. Click on the Update button



Updating the Complaint (5 of 7)

- The Edit Request screen will display
- 9. Select the Substantiated Complaint Letter hyperlink



Updating the Complaint (6 of 7)

The Substantiated Complaint Letter is generated

SPATES OF LINE

Falls Church, VA 20110

08 Aug 05

Betty Smith 1125 West Pleasant View Dr. Ogden, UT 98277

Dear Betty Smith,

The investigation of your Health Information Privacy Complaint, regarding Request for copy of medical record, is now complete.

The allegations within your complaint are substantiated. As a result of your complaint, the following actions will take place:

The complaint was found to be validated. Information was misfiled by the personnel and medical records department. They have been retrained on HIPAA and counseled. Policies were reviewed and strengthened.

If you have any questions, please contact Primary Training Organization, Skyline Pl., Falls Church, VA 20110, .

Updating the Complaint (7 of 7)

The complaint activity will no longer appear in the User Worklist



Summary

- You should now be able to:
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HIPAA Complaints Summary

- You should now be able to:
 - Describe the background of HIPAA complaints
 - Identify the types of complaints
 - Understand how a complaint is processed

Resources

- DoD 6025.18-R, "DoD Health Information Privacy Regulation", January 2003
- www.tricare.osd.mil/tmaprivacy/HIPAA.cfm
- privacymail@tma.osd.mil for subject matter questions
- hipaasupport@tma.osd.mil for tool related questions
- http://www.tricare.osd.mil/tmaprivacy/Mailing-List.cfm to subscribe to the TMA Privacy Office E-News
- Service HIPAA Privacy Representatives